

NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

CHAPTER Env-A 1000 PREVENTION, ABATEMENT, AND CONTROL OF OPEN SOURCE AIR POLLUTION

Statutory Authority: RSA 125-C:4, I(a)

PART Env-A 1001 OPEN BURNING

Env-A 1001.01 Purpose. The purpose of this part is to limit open air source pollution by regulating emissions of particulate matter and toxic air pollutants from the burning of materials where the products of combustion are discharged directly into the atmosphere rather than through a stack, chimney, or flue. Regulation of open burning is necessary to maintain attainment of the ambient air quality standards in accordance with sections 109 and 110 of the Clean Air Act, as amended, and to protect the public health and welfare pursuant to RSA 125-C:1.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03

Env-A 1001.02 Scope. This part shall apply to any person conducting open burning within the state.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; amd #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #4619, eff 5-26-89; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03

Env-A 1001.03 Definitions.

(a) “Brush” means tree tops, limbs, saplings, and tree cuttings, including attached leaves, which are 5 inches in diameter or less.

(b) “Campfire wood” means any section of a tree trunk, limb, or branch cut or split specifically for use in a campfire.

(c) “Combustible domestic waste” means “combustible domestic waste” as defined in RSA 125-N:2, IV, namely “combustible waste such as, but not limited to, household trash, packaging materials, plastics, coated or laminated papers, rubber, painted wood, coated or treated cardboard, oily rags, and animal, vegetable and kitchen waste. The term does not include untreated wood, leaves, brush, or paper products generated at a residence.”

(d) “Construction and demolition debris” means “construction and demolition debris” as defined in RSA 149-M:4, IV-a, namely “non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes, but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.”

(e) “Nuisance” means “nuisance” as defined in Env-A 101.131, namely “anything which annoys or disturbs the free use of property, or which renders its ordinary use or physical occupation uncomfortable”.

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(f) “Open burning” means the burning of any type of combustible material in the open, where the products of combustion are emitted directly into the atmosphere without passing through a stack.

(g) “Person” means “person” as defined in RSA 125-C:2, X, namely “any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States, or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties”.

(h) “Salvaging or reclaiming operation” means any activity by which a used material is processed for reuse, including but not limited to reprocessing of used motor oils, metals, chemicals, shipping containers, drums, automobiles, automobile parts, and junk yard materials.

(i) “Tire” means any rubber or synthetic object which is solid, liquid, or gas-filled and upon which vehicles or machines can be or have been driven or moved.

(j) “Tube” means any rubber or synthetic object used in conjunction with tires for the purpose of containing or having contained air within a tire cavity.

(k) “Untreated wood” means “untreated wood” as defined in Env-A 101.208, namely “any timber, board or sawn dimensional lumber which has not been treated, coated or preserved. This term does not include any manufactured building material, such as plywood or waferboard”.

Source. #120, eff 8-31-73; ss by #721.1, eff 12-7-75; amd by #1036, eff 10-15-77; #1717, eff 2-19-81; amd #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96

New. #7850, eff 3-12-03; amd by #9239, eff 8-23-08

Env-A 1001.04 General Open Burning Requirements. Open burning in any part of the state shall be permissible when the burning:

- (a) Is conducted in accordance with all local ordinances;
- (b) Is authorized by an official having jurisdiction over open burning, whenever authorization is required;
- (c) Does not create a nuisance; and
- (d) Includes only materials burned in conformance with this part.

Source. #120, eff 8-31-73; ss by #721.12, eff 12-7-75; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss and moved by #7850, eff 3-12-03 (formerly Env-A 1001.03(a))

Env-A 1001.05 Permissible Open Burning. Throughout the state, the following types of open burning shall be permissible without authorization from the department:

- (a) Burning of untreated wood, campfire wood, brush, or charcoal in a campfire, outdoor grill, or outdoor fireplace for recreational purposes or for the preparation of food;

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(b) On-premises burning for the purpose of frost prevention or agricultural, forestry, or wildlife habitat improvement;

(c) Burning of untreated wood, campfire wood, or brush in bonfires in conjunction with holiday or festive celebrations;

(d) On-site burning by the landowner of brush or leaves, provided the material originates on-site;

(e) On-site burning, by the owner of a private, single-family residence occupied by the owner, of untreated wood, provided the material originates on-site;

(f) Burning by any city or town of brush; and

(g) Pursuant to RSA 125-C:10-c and only until January 1, 2011, the incidental combustion, under the supervision of a solid waste facility operator, of the untreated wood component of construction and demolition debris at any municipal transfer station subject to regulation under RSA 149-M.

Source. #120, eff 8-31-73; ss by #721.12, eff 12-7-75; #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss and moved by #7850, eff 3-12-03(formerly Env-A 1001.03(b)(1), (b)(2), (b)(4), (c)(2), and (c)(3) and Env-A 1001.04(a)(2)); ss by #9239, eff 8-23-08

Env-A 1001.06 Absolute Prohibition Against Residential Open Burning of Combustible Domestic Waste. Pursuant to RSA 125-N:4, residential open burning of combustible domestic waste shall be prohibited.

Source. #120, eff 8-31-73; ss by #721.1 and 721.2, eff 12-7-75; ss by #1036, eff 10-15-77; ss by #1717, eff 2-19-81; amd by #2092, eff 7-20-82; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96

New. #7850, eff 3-12-03

Env-A 1001.07 Absolute Prohibition Against Burning Tires and Tubes. No tires, tubes, or any portion thereof shall be burned in the ambient air at any place in the state for any reason.

Source. #7850, eff 3-12-03 (formerly Env-A 1001.05)

Env-A 1001.08 Absolute Prohibition Against Burning in the Ambient Air for Salvaging or Reclaiming Operations.

(a) An incinerator that meets the requirements of Env-A 1900 shall be employed for all thermal salvaging or reclaiming.

(b) No salvaging or reclaiming operation shall burn anything on-site in the ambient air.

Source. #7850, eff 3-12-03 (formerly Env-A 1001.06)

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Env-A 1001.09 Absolute Prohibition Against the Open Burning of Construction and Demolition Debris. Except as expressly allowed under Env-A 1001.05, no person shall combust in the open or allow the open burning of construction and demolition debris, including the wood component thereof.

Source. #9239, eff 8-23-08

PART Env-A 1002 FUGITIVE DUST

Env-A 1002.01 Purpose. The purpose of this part is to limit open air source pollution by regulating the direct emissions of particulate matter from mining, transportation, storage, use, and removal activities.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03

Env-A 1002.02 Scope.

(a) This part shall apply to any person engaged in activities that emit fugitive dust within the state, including but not limited to those engaged in any of the following:

- (1) Commercial mining activities, including the construction, maintenance, or operation of a commercial mining or strip mining facility or part thereof;
- (2) Construction activities, including building, paving, sweeping, trenching, excavating, filling, or other activity associated with the building of streets, roads, highways, parking lots, shopping centers, housing developments, or other centers of business or residential development;
- (3) Maintenance activities, including sweeping, vacuuming, or other activity involved with the upkeep of streets, roads, highways, parking lots, shopping centers, housing developments or other centers of business or residential development, buildings, bridges, utilities, sewerlines, waterlines, or similar entities;
- (4) Demolition activities, including the tearing down of buildings, bridges, or other structures;
- (5) Bulk hauling activities, including the transportation and transfer of material over public roads; and
- (6) Storage activities, including the unloading, redistribution, and maintenance of materials at a facility.

(b) This part shall not apply to the following:

- (1) Application of traction enhancement materials, including sand, and de-icing chemicals such as road salt, that have been applied to roads for public safety;
- (2) Normal usage of gravel or dirt roads;
- (3) Resurfacing activities of existing highways where the removal of surplus sand is not necessary; and

(4) Agricultural or forestry industry activities or operations.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03

Env-A 1002.03 Definitions. “Surplus sand” means sand left over on the pavement surface at the completion of a resurfacing activity.

Source. #1038, eff 10-15-78; amd by #1717, eff 2-19-81; ss by #2332, eff 4-29-83; ss by #2938, eff 12-27-84; ss by #5033, eff 12-27-90; ss by #6283-B, eff 7-10-96; ss by #7850, eff 3-12-03

Env-A 1002.04 Precautions to Prevent, Abate, and Control Fugitive Dust. Any person engaged in any activity, except those listed in Env-A 1002.02(b), above, that emits fugitive dust within the state shall take precautions throughout the duration of the activity in order to prevent, abate, and control the emission of fugitive dust including but not limited to wetting, covering, shielding, or vacuuming.

Source. #7850, eff 3-12-03 (formerly Env-A 1002.03)

PART Env-A 1003 FIREFIGHTER INSTRUCTION AND TRAINING ACTIVITIES

Env-A 1003.01 Purpose. The purpose of this part is to minimize open air source pollution by limiting emissions of particulate matter and toxic air pollutants from open burning for firefighter instruction and training purposes.

Source. #7850, eff 3-12-03

Env-A 1003.02 Scope. This part shall apply to any sponsoring fire service organization conducting open burning for firefighter instruction and training purposes within the state.

Source. #7850, eff 3-12-03

Env-A 1003.03 Definitions.

(a) “Competent person” means “competent person” as defined in Env-A 101.80, namely “one capable of identifying asbestos hazards in a commercial, private, or residential structure, and who has completed, at a minimum, a training course for asbestos inspectors meeting the requirements of 40 CFR 763, Subpart E, Appendix C, section I:1,A”.

(b) “Course coordinator” means “course coordinator” as defined in Fire 101.09, namely “an individual instructor who is present and oversees each area of instruction. The course coordinator is the primary person responsible for training delivery.”

(c) “Fire department” means “fire department” as defined in Fire 101.15, namely “the legally constituted municipal or privately incorporated agency that provides services such as, but not limited to, fire suppression, fire prevention, rescue, hazardous materials, emergency medical care, fire investigation, and fire or building inspections in the state, county, municipality, organized fire district, or area.”

(d) “Person” means “person” as defined in RSA 125-C:2, X, namely “any individual, partnership, firm or co-partnership, association, company, trust, corporation, department, bureau, agency, private or municipal corporation, or any political subdivision of the state, the United States, or political subdivisions or agencies thereof, or any other entity recognized by law as subject to rights and duties”.

(e) “Specialty instructor” means “specialty instructor” as defined in Fire 101.23, namely “a person who possesses a specialized expertise in a particular subject area and who has met the requirements of these rules [Fire 400] to teach only in that particular area as a course coordinator.”

(f) “Sponsoring fire service organization” means:

- (1) Fire department as defined in this section; or
- (2) Any person who coordinates firefighter instruction and training activities.

(g) “State certified fire instructor” means “state certified fire instructor” as defined in RSA 21-P:12-c, II(c), namely “a person who has completed the requirements to hold such certification as approved by the New Hampshire fire standards and training commission.”

Source. #7850, eff 3-12-03

Env-A 1003.04 Firefighter Instruction and Training Activities.

(a) Notwithstanding Env-A 1001, open burning by a sponsoring fire service organization of solid fuel, liquid fuel, a motor vehicle, or a structure shall be permissible for firefighter instruction and training if conducted in accordance with this part.

(b) A state certified fire instructor or specialty instructor shall directly control and supervise the firefighter instruction and training activities that involve open burning.

(c) The sponsoring fire service organization shall:

- (1) Not burn any debris from the demolition of a structure; and
- (2) For a structure, ensure that the owner of the structure disposes of ash resulting from firefighter instruction and training activities in accordance with Env-Wm 101 through Env-Wm 300 and Env-Wm 2100 through Env-Wm 3700.

Source. #7850, eff 3-12-03

Env-A 1003.05 Form ARD-1003, Live Fire Instruction and Training Activities Notification.

(a) At least 10 days before an open burn for firefighter instruction and training purposes, the sponsoring fire service organization shall complete and submit to the department a Form ARD-1003, “Live Fire Instruction and Training Activities Notification”, including the following information:

- (1) Regarding the sponsoring fire service organization, the organization’s:
 - a. Name;
 - b. Mailing address; and
 - c. Telephone number;
- (2) Regarding the contact person for the fire service organization, the contact’s:
 - a. Name;
 - b. Title; and
 - c. Telephone number;

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- (3) The date(s) of the instruction and training activities;
 - (4) The location of the instruction and training activities;
 - (5) A detailed description of the instruction and training activities;
 - (6) Regarding the state certified fire instructor or specialty instructor for the instruction and training activities, the instructor's:
 - a. Name;
 - b. Telephone number; and
 - c. Type of instructor;
 - (7) If conducting instruction and training activities in a structure:
 - a. A statement that a competent person has performed an asbestos inspection and provided a report to the building owner certifying that all asbestos containing materials have been removed;
 - b. A statement that an asbestos notification form as specified in Env-A 1803 has been completed and submitted to the department at least 10 days prior to the scheduled burn date; and
 - c. A statement that materials with the potential for creating an environmental hazard have been removed and properly disposed of, including but not limited to:
 - 1. Mercury-containing thermostats;
 - 2. Fluorescent lamps;
 - 3. Fuel oil tanks;
 - 4. Paints, solvents, and other liquids containing hazardous ingredients;
 - 5. Pesticides, insecticides, fertilizers, and other potentially hazardous solids;
 - 6. Tires;
 - 7. Residential trash; and
 - 8. Furniture and appliances not specifically utilized in the training exercise; and
 - (8) A statement that the instruction and training activities will be conducted in accordance with this part.
- (b) The sponsoring fire service organization shall:
- (1) Sign and date the form; and
 - (2) Certify by the individual's signature that the information on the form is true and correct to the best of the individual's knowledge and belief.

Source. #7850, eff 3-12-03

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Appendix

Rule	Specific State Statute the Rule Implements
Env-A 1000 (specific rules implementing specific statutes are listed below)	RSA 125-C:4, I(a)
Env-A 1001.03(d)	RSA 149-M:4, IV-a
Env-A 1001.05	RSA 125-C:6, RSA 125-C:10-c
Env-A 1001.06	RSA 125-N:4
Env-A 1001.09	RSA 125-C:10-c